Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of	)	
	)	
AT&T Corp. Petition for Preemption, Pursuant to Section 253 of the Communications Act and Common Law Principles, of South Carolina Statutes that Established an Interim LEC Fund	)	CC Docket No. 96-45 DA 03-2779

COMMENTS OF THE
SOUTH CAROLINA TELEPHONE COALITION

M. John Bowen, Jr.
Margaret M. Fox
McNAIR LAW FIRM, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
Telephone: (803) 799-9800
Facsimile: (803) 376-2219

Kenneth E. Hardman
Attorney at Law
1015 – 18th Street, N.W., Suite 800
Washington, DC 20036
Telephone: (202) 223-3772
Facsimile: (202) 833-2416

Attorneys for the South Carolina Telephone Coalition

November 17, 2003

TABLE OF CONTENTS

Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of	)	
	)	
AT&T Corp. Petition for Preemption, Pursuant to Section 253 of the Communications Act and Common Law Principles, of South Carolina Statutes that Established an Interim LEC Fund	)))))	Docket No. 96-45 DA 03-2779

COMMENTS OF THE
SOUTH CAROLINA TELEPHONE COALITION

The South Carolina Telephone Coalition (SCTC), an organization of rural telephone companies operating in the State of South Carolina, on behalf of its members as listed in Exhibit A, hereby respectfully submits these comments, by and through its undersigned counsel and pursuant to Federal Communications Commission (FCC or Commission) Rules 1.415 and 1.419.[1] These comments are being submitted in response to the public notice issued by the FCC in the above-captioned proceeding.[2]

INTRODUCTION AND SUMMARY

In 1996, the South Carolina General Assembly enacted Act No. 354, which became effective on May 29, 1996. Act No. 354 included statutory language directing the Public Service

---

[1] 47 C.F.R. §§ 1.415 and 1.419.

[2] Wireless Competition Bureau Seeks Comment on AT&T Corporation's Petition for Preemption, Pursuant to Section 253 of the Communications Act and Common Law Principles, of South Carolina Statutes That Established an Interim Local Exchange Carrier Fund, CC Docket No. 96-45, Public Notice, DA 03-2779 (rel. September 4, 2003), published at 68 Fed. Reg. 54227 (September 16, 2003).

Commission of South Carolina (SCPSC) to establish the Interim Local Exchange Carrier Fund (Interim LEC Fund or ILF) not later than December 31, 1996.[3] The SCPSC held a hearing on December 16-17, 1996, at which various parties, including AT&T Corporation (AT&T) presented testimony and proposed administrative procedures for operation of the ILF.[4] AT&T did not oppose implementation of the ILF and, in fact, AT&T's witness stated that the purpose of his testimony was to provide information to the SCPSC "that will aid in the implementation of" the state statutes requiring implementation of the ILF.[5]

The SCPSC issued Order No. 96-882 in SCPSC Docket No. 1996-318-C, dated December 30, 1996,[6] establishing the ILF and ordering implementation beginning on April 1, 1997. AT&T did not appeal SCPSC Order No. 96-882, nor did it petition the SCPSC for reconsideration of its decision.[7] AT&T allowed the ILF to go into effect, without objection or appeal, and has reaped the benefits of the ILF (lower intrastate access rates) for more than six years.

---

[3] S.C. Code Ann. § 58-9-280(M).

[4] See, e.g., Hearing Exhibit No. 1 in SCPSC Docket No. 96-318-C (Exhibit A to Testimony of SCTC witness H. Keith Oliver, proposed ILF Administration and Procedures); Hearing Exhibit No. 6 (Exhibit JMM-1 to Testimony of AT&T witness James Mertz, proposed changes to SCTC's ILF Administration and Procedures).

[5] See Testimony of James M. Mertz in SCPSC Docket No. 96-318, found at Vol. 2 of the transcript of hearing on December 16, 1996 at pp. 111-126, which is attached hereto as Exhibit B.

[6] SCPSC Order No. 96-822 is attached hereto as Exhibit C.

[7] The South Carolina Department of Consumer Affairs appealed SCPSC Order No. 96-882 on the sole ground that the SCPSC had not given adequate notice to customers of the local rate increases associated with the rate rebalancing portion of the ILF program. That appeal, which was ultimately remanded to the SCPSC from the Supreme Court of South Carolina and appealed again, is pending before the Supreme Court of South Carolina under the name Porter v. Public Service Comm'n. The program has continued in operation despite the appeal, pursuant to state law. See S.C. Code Ann. § 1-23-380(A)(2) ("The filing of [a petition for judicial review] does not itself stay enforcement of the agency decision.")

Nonetheless, AT&T filed a petition with the FCC (Petition) on October 7, 2002, in which AT&T seeks to have the FCC preempt South Carolina statutes and administrative procedures that established the ILF. AT&T argues that the ILF violates Section 253(a) of the Communications Act of 1934, as amended (Act), as well as traditional preemption principles, because it allegedly is not competitively neutral, discriminates against new entrants, and has the effect of deterring competitive entry.

AT&T's apparent goal in filing the Petition is to force the ILF to be treated as a universal service fund, thereby requiring a broader base of contributors to fund the ILF. In this way, AT&T can not only continue to reap the substantial financial benefits it receives as a result of the ILF (lower intrastate access rates), it can actually <u>increase</u> the net amount of its direct financial benefits through offloading some of its current contribution to entities not now contributing.

SCTC submits that the ILF should not be preempted under either Section 253(a) of the Act or traditional preemption principles, for several reasons. First, the ILF does not "prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service," as Section 253(a) requires as the basis for preemption; nor does it discriminate against any class of carriers and, more particularly, against new entrants. Second, the ILF is a state program for rebalancing intrastate rates. It is not a universal service fund and, therefore, does not conflict with the requirements established in Section 254 of the Act. Finally, AT&T's participation in the proceedings establishing the ILF, and its failure to raise the objections stated in its Petition in those earlier proceedings, act as a bar to the instant Petition.

BACKGROUND OF THE INTERIM LEC FUND

The ILF is a state program for rebalancing intrastate rates. It was created pursuant to S.C. Code Ann. § 58-9-280(L)-(M). Subsection (M) requires the SCPSC to establish an ILF not later than December 31, 1996, and Subsection (L) clearly demonstrates that the ILF is, first and foremost, a rate rebalancing program. Subsection (L) provides as follows (with emphasis supplied):

> Upon enactment of this section and the establishment of the Interim LEC Fund, as specified in subsection (M) of this section, the [SCPSC] shall, subject to the requirements of federal law, require any electing incumbent LEC, other than an incumbent LEC operating under an alternative regulation program approved by the [SCPSC] before the effective date of this section, to immediately set its toll switched access rates at levels comparable to the toll switched access rates of the largest LEC operating within the State. To offset the adverse effect on the revenues of the incumbent LEC, the [SCPSC] shall allow adjustment of other rates not to exceed statewide average rates, weighted by the number of access lines, and shall allow distributions from the Interim LEC Fund, as may be necessary to recover those revenues lost through the concurrent reduction of the intrastate switched access rates.

Thus, the ILF allows incumbent local exchange carriers (ILECs) to lower access rates and to raise other rates to offset the lost revenues. To the extent the rate rebalancing (which is capped at statewide average rates to avoid rate shock to consumers) does not recover all of the revenues lost as a result of the access rate reductions, then and only then the ILEC may recover those revenues from the ILF.

The ILF Administrative Procedures (Procedures) adopted by the SCPSC[8] make it even clearer that the ILF program is intended to act primarily as a mechanism for rate rebalancing. The Procedures specifically provide that the ILF program "is intended to be a stand alone plan to accomplish the rebalancing of intrastate switched access rates and the specific local service rates set forth in this Plan."[9] In addition, the Procedures require participating local exchange carriers (LECs) either to raise other rates to statewide average levels or, if they choose not to do so, to

[8] See SCPSC Order No. 96-882 at p. 7 (Exhibit C hereto, wherein the SCPSC adopts SCTC's proposed Procedures, as modified); ILF Administration and Procedures (as proposed by SCTC), attached hereto as Exhibit D.

impute the amount of revenue they would have received from increasing other rates so that they cannot recover those amounts from the ILF.[10]

Thus, the ILF is intended to lower access rates and ensure the comparability of access rates among South Carolina ILECs, and to allow for rate rebalancing to offset the lost revenues. Funding is available to ensure there is no adverse revenue impact on the ILECs, but only to the extent the ILEC has first taken advantage of the opportunity to rebalance local rates.

The ILF has been in operation for over six years, and has allowed ILECs in South Carolina to take appropriate action, on a revenue neutral basis, to bring intrastate access charges to more reasonable levels. Contrary to the thrust of AT&T's petition, states should be encouraged to take such creative measures.

Because the ILF is a state rate rebalancing program that affects rates for intrastate services only, it is, as a general rule, outside the scope of the FCC's jurisdiction.[11] While preemption still may be legally permitted under certain circumstances (e.g., where there is clear Congressional intent to preempt state regulation or where there is an actual conflict between state and federal law),[12] AT&T has not made such a showing, as discussed below.

---

[9] Procedures, Section I.C (Exhibit D hereto).

[10] See Procedures Section IV.B.2. (Exhibit D hereto) (a participating LEC's amount due from the Fund is reduced by the larger of the actual rate increases or an imputed amount of the rate increases that would have been taken). The imputed amount is to be phased in at 20% per year, because the SCPSC ordered the rate increases to be phased in over a 5-year period. See SCPSC Order No. 96-882.

[11] See 47 U.S.C. § 152(b) (. . . nothing in this chapter shall be construed to apply or to give the [FCC] jurisdiction with respect to . . . charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communication service by wire or radio of any carrier . . . ."; see also Louisiana Public Service Comm'n v. FCC, 476 U.S. 355 (1986).

[12] See Louisiana Public Service Comm'n v. FCC, 476 U.S. at 368-69.

DISCUSSION

I. AT&T Has Not Demonstrated That Federal Preemption of the Statutes Implementing the Interim LEC Fund is Warranted.

Federal preemption is permissible pursuant to the Supremacy Clause of Art. VI of the United States Constitution only under certain circumstances.[13] State law should be preempted only where Congressional intent to do so is clear.[14] AT&T has alleged two grounds for preemption. First, AT&T argues that there is express Congressional intent to preempt statutes that violate Section 253(a) of the Act, and that the ILF statutes fall within the scope of Section 253(a) preemption.[15] Second, AT&T alleges that there is an actual conflict between federal and state law, i.e., between the statutes implementing the ILF and Section 254(f) of the Act.[16] As discussed in detail below, neither of these contentions has merit.

A. The Interim LEC Fund Does Not Prohibit or Have the Effect of Prohibiting the Ability of Any Entity to Provide Any Interstate or Intrastate Telecommunications Service.

Section 253(a) of the Act provides that State and local statutes, regulations, and requirements may not "prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." The ILF does not have such an effect and, thus, is not subject to preemption under Section 253(a).

AT&T seems to acknowledge that the ILF does not actually prohibit any entity from providing telecommunications service, but instead vaguely tries to show "indirect, effective

---

[13] See id.
[14] See BFP v. Resolution Trust Corp., 511 U.S. 531, rehearing denied, 512 U.S. 1247 (1994).
[15] See Petition at pp. 10-19.
[16] See Petition at pp. 23-26.

prohibitions."[17] In fact, the ILF is simply a funding mechanism; it does not, contrary to AT&T's argument, prohibit or have the effect of prohibiting anybody from providing any kind of telecommunications service they might otherwise want to provide. At most, AT&T really is trying to argue that the ILF "impairs" competition, not that it "prohibits" competition. However, Section 253(a) explicitly requires competitive preclusion as the basis for preemption and AT&T has utterly failed to meet the statutory standard.

Moreover, contrary to AT&T's claim, the ILF does not even indirectly have the effect of impairing any new entrant from entering the local exchange market. The ILF lowered access rates statewide. It also had the effect of raising participating LECs' basic local exchange rates, particularly in those rural areas of the state where local rates were historically very low in comparison to statewide average rates. To the extent local exchange competition in these high cost areas may have been indirectly inhibited by high access rates and relatively low basic local exchange rates (which AT&T has not shown, but which arguably could make it more difficult for new entrants to compete), the rate rebalancing accomplished through the ILF would actually foster competition in those areas.

Furthermore, AT&T's claim that the ILF discriminates against long distance carriers and new entrants is without merit. As an initial matter, ILF is not funded solely by long distance carriers, as AT&T suggests. In fact, the ILF is funded by "those entities receiving an access or interconnection rate reduction from LEC's pursuant to subsection (L) in proportion to the amount of the rate reduction."[18] This includes ILECs, despite AT&T's statement to the

[17] See Petition at p. 8.
[18] S.C. Code Ann. § 58-9-280(M).

contrary.[19] All entities receiving an access or interconnection rate reduction contribute to the ILF, including but not limited to IntraLATA toll providers, interexchange (long distance) carriers and resellers, Area Calling Plan (ACP) providers to the extent that they terminate measured ACP minutes to a participating LEC, and other carriers as applicable.[20] This is consistent with the testimony of AT&T's own witness in the administrative hearing before the SCPSC in December 1996, who stated:

> All entities that use switched access provided by or interconnect with the participating incumbent LECs should be required to pay into the ILF. Those entities include, but are not limited to, LECs, intraLATA toll providers, interexchange carriers ("IXCs"), resellers, Alternative Operator Service Providers ("AOS") and Area Calling Plan providers ("ACP").[21]

Those who contribute to the ILF are those who receive the benefit of the access reductions resulting from the ILF program.[22] They contribute in proportion to the amount of the rate reduction they receive.[23] The amount of the ILF is the amount necessary to recover the revenues lost as a result of the access reductions, less the amount of the rate rebalancing (or imputed amount of rate rebalancing) by the participating LECs.[24] Thus, those carriers who contribute to the ILF, like AT&T, do so at levels that are less than the amounts they would be paying in access charges if the ILF had never been established, resulting in a direct financial benefit to AT&T and other contributing carriers. This is almost certainly why AT&T did not object to the establishment of the ILF before the SCPSC and did not appeal the SCPSC's decision implementing the ILF.

---

[19] See Petition at p. 16.
[20] See Section II.A. of Procedures.
[21] Testimony of James M. Mertz in SCPSC Docket No. 96-318 (Exhibit B hereto), at p. 115.
[22] S.C. Code Ann. § 58-9-280(M).
[23] Id.
[24] S.C. Code Ann. § 58-9-280(L); Procedures, Section IV.B (Exhibit D hereto).

AT&T also contends, vaguely, that new entrants face a substantial barrier because ILECs are receiving support from the ILF that is not available to competitive carriers.[25] AT&T argues that this "effectively lowers the price for ILEC-provided service relative to competitor-provided service." This argument completely ignores the fact that the ILF program – in actuality and by design -- resulted in higher ILEC local service rates. Thus, ILF does not create a competitive pricing advantage for ILECs and no carrier, including competing carriers, is prejudiced by the ILF.[26]

B. The Interim LEC Fund is Not a Universal Service Fund and Does Not Conflict With Section 254 of the Act

The statutes and procedures governing the ILF are not in conflict with Section 254(f) of the Act, as AT&T alleges. In order to prevail on a claim for preemption based on a conflict between state and federal law, AT&T must show that the state law actually conflicts with federal law.[27] As discussed above, the ILF is primarily an intrastate rate rebalancing program. It is not a universal service fund. Thus, Section 254(f) of the Act is not relevant to the ILF and there is no conflict.

In fact, South Carolina has a State Universal Service Fund (State USF) separate and apart from the ILF, which is portable to competitive local exchange carriers (CLECs).[28] While the ILF and State USF were legislatively mandated in the same piece of legislation, they are covered by

[25] Petition at p. 11.
[26] In the Matter of Western Wireless Corporation Petition for Preemption of the Statutes and Rules Regarding the Kansas Universal Service Fund, 15 F.C.C.R. 16,227 (2000), relied upon by AT&T is distinguishable on its facts and is not to the contrary. Unlike here, that was a Universal Service Fund case involving regulations that limited the ability of carriers other than incumbent local exchange carriers to receive universal service support. The case was mooted when the state commission changed the regulations.
[27] See Dalton v. Little Rock Family Planning Services, 516 U.S. 474 (1996).

different subsections of Act No. 354.[29] In addition, the provisions that dictate how the two funds will be sized are quite different. State USF is to be sized based on the difference between the cost of providing basic local exchange service and the maximum amount the carrier may charge for the service.[30] Thus, it is a mechanism whereby a LEC may recover the cost of providing basic local exchange service. ILF, on the other hand, is to be sized based on the amount of revenue reductions resulting from participating LECs reducing intrastate switched access charges to certain levels, less the amount that can be offset with local rate rebalancing.[31] ILF, on the other hand, is a mechanism to accomplish comparability and lowering of access rates. As discussed above, it is primarily a rate rebalancing mechanism.

Because ILF is not a universal service fund, it is not governed by the requirements applicable to state universal service funds found in Section 254(f) of the Act. Therefore, there is no conflict between the South Carolina ILF program and Section 254(f) of the Act, and the ILF program should not be preempted under traditional principles of preemption.

II. AT&T Is Barred from Bringing This Action for Preemption On Legal and Equitable Grounds.

AT&T is precluded from bringing this action for preemption, due to its failure to raise the instant objections during the administrative proceeding before the SCPSC, and its six-year delay in bringing this action.

---

[28] See SCPSC Order No. 2001-419 in Docket No. 97-239-C (In re Intrastate Universal Service Fund), at para. 23.
[29] See S.C. Code Ann. § 58-9-280(L)-(M) (requiring establishment of ILF); § 58-9-280(E) (requiring establishment of State USF).
[30] S.C. Code Ann. § 58-9-280(E)(4).
[31] See S.C. Code Ann. § 58-9-280(L); Procedures, Sections III-IV (Exhibit D hereto).

The South Carolina statutes in question became effective on May 29, 1996. As noted above, AT&T actively participated in administrative proceedings before the SCPSC in December 1996 to establish the ILF and, in fact, presented testimony at the hearing. AT&T did not raise before the SCPSC the objections it now attempts to raise in its Petition. In fact, AT&T's witness did not object to implementing the ILF at all, but stated that the purpose of his testimony was to provide information to the SCPSC "that will aid in the implementation of" the state statutes requiring implementation of the ILF.[32] AT&T did not petition the SCPSC for reconsideration of its decision, nor did AT&T appeal the SCPSC's decision. Instead, AT&T waited until more than 6 ½ years after the statutes were enacted and more than 5 ½ years after the ILF began operation before bringing this Petition for preemption before the FCC in October 2002.

AT&T's Petition is barred by the doctrine of res judicata. To establish res judicata under South Carolina law,[33] there must be identity of the parties, identity of the subject matter, and adjudication of the issue in the former suit.[34] Res judicata also bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject

[32] See Testimony of James M. Mertz in SCPSC Docket No. 96-318-C (Exhibit B hereto), at p. 112.

[33] State judicial proceedings have the same full faith and credit in federal courts as they have in the state court from which they are taken. 28 U.S.C. § 1738. Therefore, a party's state court judgment will have the same preclusive effect in federal court that it would have in state court. See Sea Cabin on Ocean IV Homeowners Ass'n v. City of N. Myrtle Beach, 828 F. Supp. 1241, 1248-49 (D.S.C. 1993) (citing Migra v. Warren City School District Board of Education, 465 U.S. 75, 81 (1984)). By analogy, the same should apply to a final administrative agency decision. Therefore, South Carolina law should be applied to determine whether AT&T's requests are barred by res judicata. See Sea Cabin, 828 F.Supp. at 1249.

[34] Sealy v. Dodge, 347 S.E.2d 504, 505 (S.C. 1986).

of a prior action between those parties.[35] The doctrine bars not only those issues that were actually raised, but also those that could have been raised.[36]

Res judicata not only bars subsequent "court" proceedings, but also "applies to the decisions of state agencies, barring the relitigation of the issues which were or could have been raised before the administrative hearing body."[37] Additionally, the doctrine bars relitigation of unappealed final agency adjudications,[38] as well as barring relitigation of agency determinations upheld by a state appellate court.[39]

In the present case, AT&T fully participated as a party in the administrative hearing and chose not to appeal the administrative decision. In fact, while AT&T made some recommendations with respect to implementation of the ILF, it did not oppose establishing the ILF.[40] AT&T is, therefore, barred by the doctrine of res judicata from raising the issues it attempts to raise in its Petition before the FCC, and the Petition should be dismissed.

What AT&T apparently seeks to assert here is a collateral appeal of the SCPSC's 1996 decision to implement the ILF in SCPSC Order No. 96-882. AT&T did not seek reconsideration of that order, as required by state law as a prerequisite to seeking judicial review of an SCPSC order,[41] and therefore has failed to exhaust its administrative remedies with respect to SCPSC

[35] Sub-Zero Freezer Co. v. R.J. Clarkson Co., 417 S.E.2d 569, 571 (S.C. 1992); Sea Cabin, 828 F.Supp. at 1249 (citing Riedman Corp. v. Greenville Steel Structures, Inc., 419 S.E.2d 217, 218 (S.C. 1992)).
[36] See South Carolina Department of Social Services v. Winyah Nursing Homes, Inc., 320 S.E.2d 464, 468 (S.C. Ct. App. 1984).
[37] Id. (citations omitted).
[38] See id.
[39] See Sea Cabin, 828 F.Supp. at 1249 (citing DiAngelo v. Illinois Dep't of Public Aid, 891 F.2d 1260, 1263 (7th Cir. 1989)).
[40] See Testimony of James M. Mertz in SCPSC Docket No. 96-318-C (Exhibit B hereto).
[41] See S.C. Code Ann. § 58-9-1410; § 58-9-1200.

Order No. 96-882. In addition, if this is in fact an attempt to appeal SCPSC Order No. 96-882, it is not timely.[42]

AT&T should also be barred from bringing this action for preemption by the equitable doctrines of laches and estoppel. The defense of laches may be applied to a party when there is an unreasonable delay in bringing an action, and the other party is materially prejudiced thereby.[43] The prejudice may be either economic prejudice or prejudice to the other party's defense (e.g., lost records, unavailability of witnesses, etc.)[44] In this case, AT&T's lengthy delay is unreasonable, particularly in light of the circumstances (i.e., AT&T's earlier testimony and actions in support of the ILF). The companies who participated in the ILF have been prejudiced by AT&T's delay in bringing this action because the rate adjustments have already been in effect for years, and would be very difficult, if not impossible, to reverse if preemption were ordered. If the SCTC companies were not able to undo the rate adjustments, AT&T would be unjustly enriched by its delay in bringing the action, because it would have received the benefit of the reduced access without the corresponding obligation to pay into the ILF in proportion to the reduction, as required by S.C. Code Ann. § 58-9-280(M).

AT&T should also be estopped from bringing its claim for preemption. "The elements of equitable estoppel are (1) misleading conduct, which may include not only statements and action but silence and inaction, leading another to reasonably infer that rights will not be asserted against it; (2) reliance upon this conduct; and (3) due to this reliance, material prejudice if the

---

[42] See S.C. Code Ann. § 1-23-380 (A)(1).

[43] See, e.g., Lincoln Logs, Ltd. V. Lincoln Pre-Cut Log Homes, 971 F.2d 732, 734 (Fed. Cir. 1992); In re Beaty, 306 F.3d 914 (9th Cir. 2002).

[44] JANA, Inc. v. United States, 936 F.2d 1265 (Fed. Cir. 1991), cert. denied 502 U.S. 1030 (1992).

delayed assertion of such rights is permitted."[45] AT&T's earlier failure to oppose the ILF and, indeed its implicit support of the ILF, constitute misleading conduct which led the SCTC to believe that any concerns with the ILF program had been fully addressed in the administrative proceeding. The SCTC relied upon AT&T's conduct and proceeded with rate rebalancing pursuant to the ILF statutes. As mentioned above, the SCTC will be materially prejudiced if the statutes are preempted now, more than 6 years after implementation of the ILF, because the rate rebalancing cannot be reversed. This result would unjustly enrich AT&T to the SCTC's detriment, and should not be permitted.

CONCLUSION

The South Carolina Interim LEC Fund is a state program for rebalancing intrastate access and local rates. It is not a universal service fund, it does not have the effect of deterring competitive entry, and it does not discriminate against any class of carriers and, more particularly, against new entrants. The ILF should not be preempted under either Section 253(a) of the Act or traditional preemption principles, for the reasons stated herein.

[45] Lincoln Logs, 971 F.2d at 734 (citation omitted).

Respectfully Submitted,

s/M.John Bowen, Jr.________________
M. John Bowen, Jr.
Margaret M. Fox
McNAIR LAW FIRM, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
Telephone: (803) 799-9800
Facsimile: (803) 376-2219

s/Kenneth E. Hardman________________
Kenneth E. Hardman
Attorney at Law
1015 – 18th Street, N.W., Suite 800
Washington, DC 20036
Telephone: (202) 223-3772
Facsimile: (202) 833-2416

Attorneys for the South Carolina Telephone Coalition

November 17, 2003

Columbia, South Carolina

Certificate of Service

I hereby certify that I have this 17th day of November, 2003, served the foregoing Comments of the South Carolina Telephone Coalition upon AT&T Corp. by mailing a true copy thereof, first class postage prepaid, to its attorneys Mark C. Rosenblum, Esq., Lawrence J. Lafaro, Esq., Stephen C. Garavito, Esq., AT&T Corp., 900 Route 202/206 North, Room 3A250, Bedminster, NJ 07921.

s/Kenneth E. Hardman
Kenneth E. Hardman

EXHIBIT A

South Carolina Telephone Coalition Member Companies

Bluffton Telephone Company, Inc.

Chesnee Telephone Company

Chester Telephone Company

Farmers Telephone Cooperative, Inc.

Ft. Mill Telephone Company, d/b/a Comporium Communications

Hargray Telephone Company, Inc.

Home Telephone Company, Inc.

Horry Telephone Cooperative, Inc.

Lancaster Telephone Company, d/b/a Comporium Communications

Lockhart Telephone Company

McClellanville Telephone Company

Norway Telephone Company

Palmetto Rural Telephone Cooperative, Inc.

Piedmont Rural Telephone Cooperative, Inc.

PBT Telecom

Ridgeway Telephone Company

Rock Hill Telephone Company, d/b/a Comporium Communications

Sandhill Telephone Cooperative, Inc.

St. Stephen Telephone Company

West Carolina Rural Telephone Cooperative, Inc.

Williston Telephone Company

EXHIBIT B

AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.

INTERIM LOCAL EXCHANGE CARRIER FUND

DOCKET NO. 96-318-C

TESTIMONY OF JAMES M. MERTZ

DECEMBER 2, 1996

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND TITLE.

A. My name is James M. Mertz. My business address is 1200 Peachtree Street N.E., Atlanta, Georgia 30309. I am employed by AT&T as a District Manager - Government Affairs.

Q. BRIEFLY OUTLINE YOUR EDUCATIONAL BACKGROUND AND BUSINESS EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY.

A. I received a Bachelor of Science Degree in Mathematics in 1979 from the University of Georgia in Athens, Georgia. I received a Masters of Business Administration degree in Finance in 1983 from Georgia State University in Atlanta, Georgia.

My telecommunications career began in 1979 with AT&T Long Lines designing computer systems to maintain the telephone network. In May 1983, I accepted a position in AT&T's Finance department supervising the maintenance of accounting records. In January 1985, I accepted a position in the AT&T Accounting Regulatory Support Group dealing with financial analysis and rate case preparation. In August 1986, I joined AT&T's Government Affairs organization where I have held numerous management positions with responsibility for economic analysis, training development, financial analysis and budgeting, strategic planning, regulatory issues management, Local Exchange Company ("LEC") relations, legislative policy implementation, and planning and executing AT&T's strategic business initiatives for intrastate telecommunication services.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS CASE?

A. The purpose of my testimony is to provide information to the South Carolina Public Service Commission ("Commission") that will aid in the implementation of House Bill 4694 ("Bill") Section 58-9-280 paragraphs (L) and (M) which require the establishment of an Interim LEC Carrier Fund ("ILF") and that the Local Exchange Companies ("LECs") set their toll switched access rates at levels comparable to the toll switched access rates levels of the largest LEC (BellSouth) operating within the State.

My testimony will:

- address the proper size for the Interim LEC Fund
- describe who should pay into the ILF and how much
- respond to the testimony of United Telephone Company of the Carolinas ("United"), GTE South Incorporated ("GTE") and the South Carolina Telephone Coalition ("SCTC").

Q. WHAT IS THE PROPER SIZE OF THE INTERIM LEC FUND?

A. The proper size of the ILF can be determined by following the language in paragraph (L) of Section 58-9-280 of the Bill. That language states, "To offset the adverse effect on the revenues of the incumbent LEC, the Commission shall allow adjustment of other rates not to exceed statewide average rates, weighted by the number of access lines, and shall allow distributions from the Interim LEC Fund, as may be necessary to recover those revenues lost through the concurrent reduction of the intrastate switched access rates." First, the Bill's language states, "...the Commission shall allow adjustment of other rates not to exceed statewide average rates...". It is clear that the LECs can offset the adverse effect on their revenues of setting their toll switched access rates comparable to BellSouth's toll switched access rates by raising other rates if they choose to do so. The proposal of the SCTC appears to partially do so.

Next, the Bill's language states, "...shall allow distributions from the Interim LEC fund, as may be necessary...." The ILF is available to the incumbent LECs if necessary after they adjust their other rates. The Commission should require parties to contribute to the ILF only as much as is necessary, if any, after the LECs have calculated the revenue generated by raising their other rates. Increasing payments into the ILF when a LEC chooses not to raise other rates, only partially raise rates, or delays raising those rates until sometime in the future is an unnecessary burden on parties paying into the ILF and switched access charges. Consequently, the Commission should determine the size of the ILF by determining the incumbent LECs' revenue reduction resulting from setting their toll switched access rates comparable to BellSouth's switched access rates minus the revenue the LECs would receive if they raised their other rates to statewide average rates.

Q. **CAN THE AMOUNT OF THE INTERIM LEC FUND BE INCREASED IN THE FUTURE WITHOUT AGREEMENT BY ALL PARTIES CONTRIBUTING TO THE ILF OR A COMMISSION HEARING?**

A. No. The purpose of the ILF is to offset the effect of setting toll switched access rates at levels comparable to BellSouth on the revenues of the incumbent LEC if they can not do so by increasing other rates. The result is that the participating LEC has the opportunity to maintain the same level of revenue as they are receiving today. If, at some time in the future, a participating LEC needs additional revenue, it can follow the same procedures that have always been available to it before this Commission and should not use the ILF for this purpose.

Q. IF AN INTERIM LEC FUND IS NECESSARY, WHO SHOULD PAY INTO THE ILF AND HOW MUCH?

A. The parties contributing to an Interim LEC Fund can be determined by following the language in paragraph (M) of Section 58-9-280 of the Bill. That language states, "The Interim LEC Fund shall initially be funded by those entities receiving an access or interconnection rate reduction from LEC's pursuant to subsection (L) in proportion to the amount of the rate reduction." All entities that use switched access provided by or interconnect with the participating incumbent LECs should be required to pay into the ILF. Those entities include, but are not limited to, LECs, IntraLATA toll providers, interexchange carriers ("IXCs"), resellers, Alternative Operator Service Providers ("AOS") and Area Calling Plan providers ("ACP"). Each entity's contribution to the ILF should be calculated separately for each participating LEC. An entity's contribution for each participating LEC should be an entity's percentage of the total participating LEC's switched access and/or interconnection minutes of use

("MOU") multiplied by the participating LEC's draw from the ILF .

Q. WHY SHOULD LECS, INCLUDING PARTICIPATING LECS, BE REQUIRED TO PAY INTO THE ILF?

A. LECs, their subsidiaries and/or affiliated companies provide interLATA toll, intraLATA toll and ACPs to customers in South Carolina which require the use of switched access and/or interconnection. Consequently, LECs will receive an access or interconnection rate reduction and are required by paragraph (M) of Section 58-9-280 to fund the Interim LEC Fund.

Q WHY SHOULD EACH ENTITY'S CONTRIBUTION TO THE ILF BE CALCULATED SEPARATELY FOR EACH PARTICIPATING LEC?

A. Calculating an entity's contribution to the Interim LEC Fund separately for each participating LEC will ensure that the entities actually receiving a switched access or interconnection reduction pay into the ILF in proportion to the reduction they realize. First, an entity's percentage of switched access or interconnection MOUs will vary greatly between participating LECs depending on market share. The IXC's market share for toll traffic is low for participating LEC's territories that have been successful offering long distance such as Chester, Farmers, Fort Mill, Horry, Lancaster, Lockhart, Ridgeway, and Rock Hill. For example, AT&T's market share of presubscribed lines in markets served by different participating LECs varies from as low as 22% where the participating LEC offers long distance to as high as 100% where the participating LEC does not offer long distance. Second, participating LECs' requirements from the ILF may vary from nothing to millions of dollars and has no correlation to whether the participating LEC offers long distance. Third, the size of the ILF is greatly influenced by a small number of participating LECs. Consequently, calculating an entity's contribution to the ILF on their statewide shares of the sum of participating LECs' intrastate switched access minutes would force some entities to pay more than the reductions they receive and allow others to pay less than they receive.

Data from Exhibit A page 5 of 5 of Mr. Steven Meltzer's testimony in this case can be used to show why each entity's contribution to the ILF should be calculated separately for each participating LEC. The use of this unverified data is only intended to demonstrate that calculating an entity's contribution to the ILF on their statewide shares of the sum of participating LECs' intrastate switched access minutes would force some entities to pay more than the reductions they receive and allow others to pay less than they receive. The use of Mr. Meltzer's data does not mean that the Commission should not verify it for accuracy. Mr. Meltzer's exhibit shows that the Total Interim LEC Fund is $9,954,584 and that nine of 23 companies will receive no monies from the ILF. Six of the nine companies that require no monies from the ILF have been successful in obtaining long distance market share. Three of the 14 companies that require monies from the ILF, ALLTEL, Farmers and Pond Branch, will draw $5,464,234 or 55% of the Total LEC Interim Fund of $9,954,584. Consequently, calculating an entity's contribution to the Interim LEC Fund separately for each participating LEC will ensure that the entities actually receiving a switched access or interconnection reduction pay into the ILF in proportion to the reduction they realize

Q. DO YOU HAVE ANY COMMENTS ABOUT THE TESTIMONY OF MR. DONALD O. HORTON FOR UNITED?

A. Yes.

Q. DO YOU AGREE WITH PARTS OF MR. HORTON'S TESTIMONY?

A. Yes. On page 5 of Mr. Horton's testimony there are four major points that we agree on. They are:

1. The Commission should first determine if the financial information that has been filed is sufficient and adequate to finalize plans for implementing the ILF.

2. The Commission should review the LEC's proposed recovery plans to ensure they are consistent with S.C. Code Section 58-9-280 (L) and the Commission's regulatory policy.

3. The Commission must address the funding of the ILF, which will include identifying the companies that will receive access rate reductions and the proportionate amount of reduction each company will receive.

4. The Commission can address how the ILF will terminate and transition into the Universal Service Fund ("USF") when it addresses the USF in future hearings.

Q. IS THE FINANCIAL INFORMATION THAT UNITED HAS FILED SUFFICIENT AND ADEQUATE TO FINALIZE PLANS FOR IMPLEMENTING THE ILF?

A. No. United has not stated in its testimony how the annual quantities or minutes of use for each access revenue source were derived. However, in an earlier workshop United indicated that its annual quantities or MOU were six months actual and six months forecasted. The Commission has not been provided any information on how United forecasted six months of MOU.

Q. WHAT ANNUAL QUANTITY OR MINUTES OF USE SHOULD BE USED BY EACH LEC THAT PARTICIPATES IN THE ILF?

A. The latest twelve months for which actual minutes of use are available.

Q. **WHY SHOULD THE MOST RECENT TWELVE MONTHS OF ACTUAL MINUTES OF USE BE USED?**

A. First, the number of long distance calls made in an area during any given month is affected by many different factors and can vary widely from month to month. These factors include weather, holidays, length of daylight, tourist seasons, schools in session, business cycles and many more. Using a partial year of MOU and annualizing the results for the remaining months will not capture these variations. The best way to capture these variations is to use the latest twelve months of actual MOU. Second, using a partial year of actual results and forecasting the remaining portion of the year may not produce accurate results. Any forecast will have to take into account seasonality, the forecasted growth or shrinkage of the market and the plans of the companies offering long distance service (these are not known by the participating LECs). Consequently, using anything other than the last twelve months of MOU that is available will distort the calculations of reduced revenues for the LECS.

Q. **IS UNITED'S RECOVERY PLAN CONSISTENT WITH S.C. CODE SECTION 58-9-280 (L) AND THE COMMISSION'S REGULATORY**

POLICY?

A. No. United is proposing to recover $4,544,352 or 100% of its reduced revenues from the ILF and nothing from adjusting its other rates. Using the numbers that United has provided in this case, its actual need from the ILF is no more than ~~$2,786,814.~~ $ 2,537,522

Q. **HAS UNITED OR ANY OTHER LEC PLANNING ON PARTICIPATING IN THE ILF PROVIDED THE COMMISSION THE INFORMATION THAT IS NEEDED TO IDENTIFY THE COMPANIES THAT WILL RECEIVE ACCESS RATE REDUCTIONS AND THE PROPORTIONATE AMOUNT OF REDUCTION EACH COMPANY WILL RECEIVE?**

A. No.

Q. **SHOULD EVERY LEC PARTICIPATING IN THE ILF BE REQUIRED TO PROVIDE THE COMMISSION THE INFORMATION THAT IS NEEDED TO IDENTIFY THE COMPANIES THAT WILL RECEIVE ACCESS RATE REDUCTIONS AND THE PROPORTIONATE AMOUNT OF REDUCTION EACH COMPANY WILL RECEIVE?**

A. Yes. Mr. Horton's testimony points out that the Commission must address the funding of the ILF, which will include identifying the companies that will receive access rate reductions and the proportionate amount of reduction each company will receive. Only participating LECs, or a company that bills LECs access charges, will be able to provide the Commission with a complete list of companies receiving an access rate reduction as a result of their access changes. Also, each participating LEC should be required to report to every company receiving an access reduction the amount and calculation of the access reduction it is receiving for verification. Reporting this amount and calculation would not be burdensome to any LEC since the information is available and the LEC already bills the company for access charges.

Q. WHAT IS GTE'S POSITION ON THE FUNDING OF THE ILF?

A. On Page 4 of Mansel W. Williams' testimony he states, "The funding for the Interim LEC Fund should be contributed by those entities receiving an access or interconnection rate reduction from the electing LECs and the funding should be in proportion to the reduction received." This is consistent with the position of both United and AT&T.

Q. IS THE FINANCIAL INFORMATION THAT GTE HAS FILED SUFFICIENT AND ADEQUATE TO FINALIZE PLANS FOR IMPLEMENTING THE ILF?

A. No. GTE has calculated its annual quantities or minutes of use for each access rate by annualizing February through May 1996 units. As explained earlier in this testimony, all participating LECs should use the latest twelve months of actual MOU that are available.

Q. **IS GTE'S RECOVERY PLAN CONSISTENT WITH S.C. CODE SECTION 58-9-280 (L) AND THE COMMISSION'S REGULATORY POLICY?**

A. No. GTE is proposing to recover $6,052,274 or 100% of its reduced revenues from the ILF and nothing from adjusting its other rates. GTE should be required to compute the revenue that would be obtained by adjusting its other rates to the statewide average. Then the Commission will know GTE's requirement from the ILF, if any.

Q. **IS THE FINANCIAL INFORMATION THAT THE SCTC FILED SUFFICIENT AND ADEQUATE TO FINALIZE PLANS FOR IMPLEMENTING THE ILF?**

A. No. Mr. Meltzer's Exhibit A shows an Access Revenue Reduction and Interim LEC Fund Reduction for each SCTC participating LEC, but does not show the actual calculations that were used for each LEC to derive these numbers. Without the worksheets used to compute the access revenue reductions and the revenue generated by raising other rates, the

Commission is unable to verify the accuracy of the SCTC's number and should not allow the SCTC LECs to draw funds from the ILF.

Q. DO YOU HAVE ANY COMMENTS ABOUT EXHIBIT A (SOUTH CAROLINA INTERIM LEC FUND - ADMINISTRATION AND PROCEDURES) OF H. KEITH OLIVER'S TESTIMONY?

A. Yes. I have addressed many of the problems with Mr. Olivers's recommendations earlier in my testimony. There are three additional recommendations by Mr. Oliver that should not be accepted by the Commission.

First, Mr. Oliver recommends that any changes in rates or revenue requirements which are authorized or mandated shall not impact the calculations made pursuant to the Plan. The Commission should retain the option of reducing and/or eliminating the LECs receiving funds from the ILF if they are found to be earning above their authorized rate of return or seek regulation other than rate of return.

Second, the Commission should reject the recommendation that contributing carriers be required to remit payments at the first of each month and assessed a late payment fee of .0493% per day. Currently, toll switched access charges are paid after their usage. The SCTC's proposal would require the prepayment of the similar ILF payments. Also, the recommend late charge is excessive in that it equates to 19.4% per year and should be totally rejected.

Third, Mr. Oliver recommends that participating LECs should not be required to increase the business rate to an amount greater than two times the statewide average residential rate. If a LEC decides not to raise its business rate to the statewide average, contributing carriers should not be required to increase their payments to the ILF because of the LEC's decision to only partially raise rates.

Q. **HAVE YOU INCORPORATED THE NECESSARY CHANGES INTO EXHIBIT A (SOUTH CAROLINA INTERIM LEC FUND - ADMINISTRATION AND PROCEDURES) OF H. KEITH OLIVER'S TESTIMONY?**

A. Yes. Exhibit JMM-1 attached to my testimony incorporates the necessary changes to the SOUTH CAROLINA INTERIM LEC FUND - ADMINISTRATION AND PROCEDURES. There are no changes to Attachment A, B or C of the SOUTH CAROLINA INTERIM LEC FUND -ADMINISTRATION AND PROCEDURES.

Q. **PLEASE SUMMARIZE YOUR TESTIMONY.**

A. When implementing HB 4694 the Commission should:

- require participating LECs to file sufficient and adequate financial information to verify any requirements they may have from the ILF,

- require participating LECs to identify the companies that will receive access rate reductions and the proportionate amount of reduction each company will receive,
- compute the funding requirements of the ILF after taking into account the revenue available to the LECs by raising other rates,
- require all entities receiving an access rate reduction to fund the ILF in proportion to the amount of their reduction and
- defer addressing how the ILF will terminate and transition until USF hearings.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

EXHBIT JMM-1

Exhibit A

SOUTH CAROLINA INTERIM LEC FUND ADMINISTRATION AND PROCEDURES

I. Participation in the Interim LEC Fund

A. The local exchange companies listed in Attachment A (the "Participating LEC's") will participate in the Interim LEC Fund ("the Fund") pursuant to the procedures set forth below ("the Plan.")

B. Participating LEC's will be compensated monthly from the Fund, as described in Sections III, IV, and V, below.

C. This Plan is intended to be a stand alone plan to accomplish the rebalancing of intrastate switched access rates and the specific local service rates set forth in this Plan. Any changes in rates or revenue requirements which are authorized or mandated outside of this Plan shall not impact the calculations made pursuant to the Plan. offset the effect of setting toll switched access rates at levels comparable to BellSouth on the revenues of a participating LEC if it cannot do so by increasing other rates to the statewide average.

II. Contributions to the Fund

A. The Fund shall receive contributions from those entities (the "Contributing Carriers") receiving an access or interconnection rate reduction from Participating LEC's. Contributing Carriers include but are not limited to LECS, IntraLATA toll providers, IXCs/resellers (including new IXC/reseller entrants), Alternative Operator Service Providers, ACP providers to the extent that they terminate measured ACP minutes to a Participating LEC, and other carriers as applicable. Contributing Carriers will contribute to the Fund, an amount calculated separately for each participating LEC. An entity's contribution for each participating LEC will be an entity's percentage of the total participating LEC's switched access and/or interconnection minutes of use multiplied by the particpating LEC's draw from the Fund.based on their respective statewide shares of the sum of Participating L:EC's intrastate switched access minutes (originating and terminating) and the applicable ACP minutes. If the Commission makes a determination that a carrier's statewide share of such minutes is de minimus, then the Commission may exclude that carrier from the list of Contributing Carriers.

B. In order to assist the Commission in calculating the amount due from each

Contributing Carrier, in the first year each Participating LEC will submit to the Commission a report containing those billed minutes of use (by carrier) necessary to calculate each Contributing Carrier's respective statewide share of relevant minutes of use, as described in II(A) above, for the most recent calendar year ending December 31. 1995, of a representative 12 months (the "Base Period".) that are available. In subsequent years, each Participating LEC will provide such information, for the most recent quarter for which data that is available, to the Commission by October 1. Based on that data, each Contributing Carrier's contribution for the subsequent year will be determined, and the Contributing Carrier notified, by December 1. Each Contributing Carrier shall divide its contribution amount into 12 equal payments, with the first payment being due on January 1 31of the subsequent year.

C. Each Contributing Carrier will thereafter remit payments to the Fund by the first end of each month. Late payments to the Fund will be assessed at the rate of .0493% per day.

III. Size of the Fund

Each Participating LEC will file, to become effective January 1 of each year beginning in 1997, intrastate switched access tariff rates which equal the intrastate switched access rates, as of October 1 of the previous year, of the largest LEC operating within the State. By way of example, the intrastate switched access rates of the largest LEC currently operating within the State (i.e., BellSouth) are shown in Attachment B. Second, each Participating LEC will file with the Commission a calculation of the effect on its revenue ("Revenue Reduction") of setting its intrastate switched access rates equal to BellSouth's intrastate switched access rates. An example is shown in Attachment C. Third, each Participating LEC will file with the Commission a calculation of the revenue ("Revenue Increase") it will receive by raising its other rates to the statewide average rates (the calculation will show the current rate, new rate, number of units, and be for both residential and business services). The size of the Fund for calendar year 1997 will be the "Revenue Reduction" minus the "Revenue Increase" for all participating LECs.is the sum of the difference between each individual Participating LEC's intrastate switched access rates in effect on October 1, 1996, and the intrastate switched access rates in effect on that date for the LEC operating within the State, multiplied by each individual LEC's Base Period minutes. In future years, the calculation will be made in the same way except that the rates in effect as of October 1 of the previous year for the largest LEC operating within the State will be used. An example of how the size of the Fund will be calculated is shown in Attachment C.

IV. Adjustments to the Size of the Fund

A. Rate rebalancing by Participating LEC's will begin in the month of January, 1997. Each Participating LEC will file a subscriber tariff to reflect the rate adjustments identified in the company's proposed Rate Schedule ("Target Rate Adjustments").[1] An individual company's local rate increase pursuant to this Plan is limited to its total Fund requirements. Each company's new rates (including touchtone charges) after the Target Rate Adjustments shall not exceed the statewide average rates as of October 1, 1996: provided that no Participating LEC shall be required to make a rate adjustment pursuant to this Plan if the Participating LEC's rates, including touchtone, already exceed the statewide average rates. Participating LECs shall not be required to increase the business rate to an amount greater than two times the statewide average residential rate. Any local rate increases made pursuant to this Plan will be revenue-neutral to the Participating LECs with respect to Base Period access lines, as these increases will be offset by reductions in the Fund.

B. As local service rates are adjusted according to the respective companies' Rate Schedules, each Participating LEC's amount due from the Fund will be reduced by the larger of the following:

1. The cumulative rate adjustments, as reflected in the respective companies' Rate Schedules, multiplied by the respective number of access lines for which each service was rendered on the last day of the Base Period.

2. An imputed amount of 20% per year, cumulatively for 5 years, of the difference between the rates in effect on the last day of the Base Period and the corresponding statewide average rates, or such lower amount as may be required by an individual company to achieve revenue neutrality with respect to the Fund, or such lower amount as may be mandated by the Commission.

C. Each year, the Fund will be increased in proportion to the growth in access lines. For year 2 (calendar year 1998), the growth in access lines will be measured by comparing the access lines on the last day of the Base Period with the access lines as reported to NECA for June 30 of succeeding years will be used as the basis for comparison. Beginning in 1997, Participating LECs shall report to the Commission on October 1 of each year the access lines as reported to NECA for June 30 of that year.

V.IV. Disbursements from the Fund

The Fund will remit payments to the Participating LECs at the end of each month

---

1 The respective companies' Rate Schedules will reflect the individual rate adjustments that each company plans to make, consistent with this Plan. The proposed individual company data will be provided to the Commission in a timely manner. Each company's maximum rate for any given year can be obtained by adding the cumulative rate adjustments to the current (i.e., 1996) rate.

beginning January 31, 1997 February 28, 1997, based on the net revenue shortfall, if any, (after adjustments as described in IV above) resulting from access rate reductions their "Revenue Reduction" minus their "Revenue Increase".

VI.V. Termination of the Fund

The Fund will must terminate and transition into the Universal Service Fund ("USF"), as outlined in S.C. Code Ann. ♣ 58-9-280(E), once when funding for the USF is finalized and adequate to support the obligations of the Interim LEC Fund.

EXHIBIT C

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DECEMBER 30, 1996

DOCKET NO. 96-318-C - ORDER NO. 96-882-C

IN RE: THE INTERIM LOCAL EXCHANGE CARRIER FUND	))	ORDER

This matter comes before the Public Service Commission of South Carolina (the "Commission") upon the Commission Staff's initiation of this Docket. On May 29, 1996, the South Carolina Governor signed into law Act No. 354 (the "Act"), which in part amended South Carolina Code Section 58-9-280. This Act provided new subsections (L) and (M) for the amended Code section.

The Act states that the Commission "shall, not later than December 31, 1996, establish an Interim [Local Exchange Carrier ("LEC")] Fund." Upon the enactment of this Act and establishment of the Interim Local Exchange Carrier Fund ("ILF" or the "Fund"), the Commission "shall . . . require any electing incumbent LEC, other than an incumbent LEC operating under an alternative regulation plan . . . to immediately set its toll switched access rates at levels comparable to the toll switched access rate levels of the largest LEC operating within the State." In order to offset the adverse effects on the LECs' revenues, the Act also mandates that the Commission shall allow the LECs to adjust "other rates not to exceed statewide average rates, weighted by the number of access lines . . . ." The ILF initially is to be funded "by those entities receiving an access or interconnection rate reduction from LECs . . . in proportion to the amount of the rate reduction." Distributions are to be issued to the LECs from the Fund as necessary for the LECs "to recover those revenues lost through the concurrent reduction of the intrastate switched access rates." The Act also states that the Fund "must transition into the [Universal Service Fund ("USF")] . . . when funding for the USF is finalized and adequate to support the obligations of the Interim LEC Fund."

This law was initially addressed by the Commission in Docket No, 96-018-C, which is a generic proceeding to address Local Competition. On October 10, 1996, the Commission established Docket No. 96-318-C to deal exclusively with the establishment of the Fund. LECs that wished to elect to participate in the Fund (also known as "electing LECs") were to notify the Commission of their intent by September 15, 1996. Order No. 96-545 required that the LECs provide to the Commission by October 1, 1996, financial information pertaining to the access revenues that will be "lost" due to access rate reductions as well as the method of recovery to be utilized for these lost revenues. The electing LECs include the following companies: United Telephone Company of the Carolinas, Inc. ("United"), GTE South, Inc. ("GTE"), and the twenty-three member companies of the South Carolina

Telephone Coalition (the "Coalition"). All electing LECs complied with Commission Order No. 96-545. The Commission Staff held a meeting of all Parties of Record on November 1, 1996 in order to discuss the issues involved in this Docket.

Subsequent to that meeting and in compliance with the Act, the Commission held a public hearing at 10:30 a.m. on December 16 and 17, 1996, in the Commission's hearing room at 111 Doctors Circle, Columbia, South Carolina, to examine the legislation, the LECs' revenue requirements, proposed methods of recovery, and all other issues related to the ILF. The Honorable Guy Butler, Chairman, presided.

At the hearing, M. John Bowen, Esq., and Margaret M. Fox, Esq., represented the Coalition and presented as witnesses H. Keith Oliver and Steven Meltzer. Richard Whitt, Esq., and James Wright, Esq., appeared on behalf of United. Donald O. Horton presented testimony for United. GTE was represented by Steve Hamm, Esq., and Martin Sinor, Esq.; Mansel W. Williams filed and presented the testimony for GTE. Elliott F. Elam, Esq., represented the Consumer Advocate for the State of South Carolina (the "Consumer Advocate"). Francis P. Mood, Esq., and Steve A. Matthews, Esq., represented AT&T Communications of the Southern States, Inc. ("AT&T"). James M. Mertz presented AT&T's testimony. John M.S. Hoefer, Esq., appeared on behalf of MCI Telecommunications, Inc. ("MCI"). American Communications Services, Inc. ("ACSI") was represented by Russell B. Shetterly, Esq. B. Craig Collins, Esq., represented the South Carolina Cable Television

Association ("SCCTA"). John F. Beach, Esq., and Barry Selvidge, Esq., appeared on behalf of the South Carolina Public Communications Association ("SCPCA") and presented witness Clifton Craig. Mr. Beach also represented Peoples Telephone Company ("Peoples"). Harry M. Lightsey, III, Esq., appeared on behalf of BellSouth Telecommunications, Inc. Catherine D. Taylor, Staff Counsel, represented the Commission Staff. Dr. R. Glenn Rhyne presented testimony on behalf of the Staff.

At the beginning of the hearing, both the Consumer Advocate and the SCPCA moved to dismiss the requests of the LECs to adjust local rates, stating that the public had not received adequate notice. The two parties referenced various South Carolina Code sections regarding notice and rate adjustments of telecommunications companies. The Coalition responded to the Motion by stating that the Commission was directed by the General Assembly to establish the ILF and allow adjustments of the LECs' rates to offset the mandatory decrease in the access charges. The Coalition based its argument on the premise that the Act is a more specific statute than those cited by the Consumer Advocate and the SCPCA. The establishment of the ILF pursuant to 58-9-280 (L) and (M) and the adjustment of other rates to offset reductions in toll switched access rates is not, in the opinion of the Coalition, a "rate case" as contemplated by other statutes.

AT&T also opposed the Motion, noting that 58-9-280 is designed for a specific, limited purpose. GTE joined the opposition as well by stating that this statute is specialized and "fixed in time." United noted for the record that it did not request any local rate increases.

Regarding the Motion of the Consumer Advocate and the SCPCA, the Commission hereby denies the Motion to Dismiss the proposed LEC local rate adjustments. We agree with the arguments of the Parties opposing the Motion that this is a very specific statute enacted for specific purposes. This Commission is required by 58-9-280 to allow the LECs to adjust rates not to exceed statewide average rates. Further, notice was provided to the public in three separate newspaper publications, and we feel that this was proper for the case sub judice.

This docket presented novel and involved issues for the Commission. Particular attention was devoted to the methods for recovery of lost access revenues as well as implementation and administration of the Fund as filed by United, GTE, and the Coalition. United projected that it would require recovery of $4,544,352 annually from the Fund and did not propose to raise any of its rates. GTE has estimated that it will reduce its access rates by $6,070,515 and will need an annual distribution of $5,954,888 from the Fund. The Coalition filed a thorough Plan that detailed the Coalition companies' revenue requirements and proposed administrative procedures for the Fund. The Coalition companies estimate that they will incur a revenue shortfall once access charges are reduced by $22,055,439 annually. Many of the Coalition companies proposed rate adjustments for residential and business services. The companies' reimbursements from the Fund will be adjusted annually according to the individual company's yearly residential and business rate adjustments and a growth factor for the Fund.

Upon consideration of these matters and the testimony presented in this docket, the Commission now makes the following Findings of Fact and Conclusions of Law:

1. The LECs that are eligible and have elected to participate in the Interim Local Exchange Carrier Fund are as follows: United Telephone Company of the Carolinas, Inc., GTE South, Inc., and the Coalition Members: ALLTEL South Carolina, Inc.; Bluffton Telephone Company, Inc.; Chesnee Telephone Company; Chester Telephone Company; Farmers Telephone Cooperative, Inc.; Fort Mill Telephone Company; Hargray Telephone Company, Inc.; Heath Springs Telephone Company, Inc.; Home Telephone Company, Inc.; Horry Telephone Cooperative, Inc.; Lancaster Telephone Company; Lockhart Telephone Company; McClellanville Telephone Company; Norway Telephone Company; Palmetto Rural Telephone Cooperative, Inc.; Piedmont Rural Telephone Cooperative, Inc.; Pond Branch Telephone Company; Ridgeway Telephone Company; Rock Hill Telephone Company; Sandhill Telephone Cooperative, Inc.; St. Stephen Telephone Company; West Carolina Rural Telephone Cooperative, Inc.; Williston Telephone Company.

2. The Commission hereby adopts as its Plan for

establishment and administration of the Interim Local Exchange Carrier Fund for all electing LECs (as defined in Number 1 above) the Exhibit A of witness Keith Oliver's testimony (the Plan submitted by the South Carolina Telephone Coalition, filed as Hearing Exhibit No. I) subject to certain modifications (additions and modifications are listed below). We adopt this Plan for GTE, United and all members of the Coalition and establish the Fund pursuant to the Plan in compliance with Act No. 354. We feel that this accomplishes the Act's mandate that the Commission establish an ILF and require electing incumbent LECs to set toll switched access rates at levels comparable to the toll switched access rates of the largest LEC operating in South Carolina. Additionally, this Plan allows adjustment of the LECs' other rates not to exceed the statewide weighted average and will allow distributions from the Fund.

3. We hereby adopt the following additions to and modifications of the Coalition's Plan: (Oliver Exhibit A - Hearing Exhibit No. I):

a. The Commission shall serve as Administrator of the Fund. As Administrator, the Commission retains the flexibility to make procedural adjustments to the workings of the Fund.

b. As part of its duties as Administrator, the Commission each month shall bill Contributors for the amount owed to the Fund and shall make distributions from the Fund to the electing LECs.

c. Staff may make any technical modifications to the Plan in order to conform the Plan to the Commission's Order.

d. Staff shall determine the Contributors to the Fund consistent with the language of Act No. 354.

e. Contribution payments shall be remitted to and received by the Commission on or before the last day of each month. Contributions received after the last day of the month shall be regarded as past due.

f. The Late Payment Fee that will be applied to those Contributors which submit Fund Contributions past the due date shall be one and one-half percent (1 1/2%) added to the unpaid balance brought forward. One and one-half percent is the past due amount utilized for various purposes in the Commission's Regulations.

g. Regarding the growth factor contained in Paragraph IV(C) of the Plan: the growth factor that will be utilized shall be the lesser of either the annual incremental increase in access minutes of use or incremental increase in access lines.

h. The Fund shall be initiated and adjusted annually based upon actual minutes of use for the twelve months ending December 31 as soon as possible.

i. Universal Service Fund issues, including the transition of the ILF, shall be addressed at a later date in conjunction with the hearings before this Commission concerning the Universal Service Fund.

j. COCOT rates will be frozen at the existing rates until the 1997 COCOT proceedings, at which time all relevant COCOT regulatory issues shall be reviewed.

4. The electing LECs shall, on the operational date of the Fund, set their toll switched access rates at levels comparable to the toll switched access rate levels of the largest LEC operating within the State.

5. Staff shall conduct necessary audits of the relevant components of the Fund in order to make appropriate adjustments to the Fund's calculations. This shall include but not be limited to auditing the Companies' financial information utilized to determine potential Fund contributions and distributions, LEC access revenue losses, as well as the rate adjustment calculations.

6. The Commission and Commission Staff will treat as proprietary the minutes of use information provided by the companies that will be utilized to derive contributions to the Fund.

7. The effective date of the Plan shall be December 31, 1996. The operational date of the Plan shall be not later than April 1, 1997. Staff shall determine the actual operational date as soon as possible; that is, Staff shall pinpoint the actual operational date as soon as the audits are completed. Staff shall set its audit schedule as soon as possible.

8. The earnings review process currently utilized by the Commission shall be maintained for the electing LECs regardless of the workings of this Fund.

9. We hereby adopt rate adjustments for the Coalition LECs as detailed on the schedules attached hereto as Attachment A. If members of the Coalition are concerned with the de minimis level of annual increases, they may petition the Staff concerning the increases.

10. We hereby adopt rate adjustments for GTE South, Inc., as are detailed on the schedule attached hereto as Attachment A.

11. United did not request any rate adjustments and, therefore, we do not pass upon any adjustments for United at this time.

12. The LECs shall file tariff sheets in compliance with this Order consistent with the operational date of the Fund. Those LECs that will adjust their rates annually next five years shall file new tariff sheets in compliance with this Order on January 1 of each year.

13. This Order shall be issued and placed into the U.S. Mail by noon of December 30, 1996, under the direction of the Commission's Executive Director.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION.

Guy Butler

CHAIRMAN

ATTEST:

Gary E. Walsh

DEPUTY EXECUTIVE DIRECTOR

(SEAL)

STATEMENT OF COMMISSIONER RUDOLPH MITCHELL

I FELT THAT THE COMMISSION SHOULD HAVE POSTPONED, UNTIL A LATER DATE, THE RATE PROPOSAL IN THIS DOCKET, 96-318-C. THEREFORE, I VOTED TO DELAY THIS PORTION OF THE HEARING, BUT MY VIEWS DID NOT PREVAIL.

IT IS MY POSITION THAT THE CUSTOMERS OF THE AFFECTED TELEPHONE COMPANIES SHOULD HAVE BEEN NOTIFIED AND GIVEN A TIME AND PLACE THAT THEIR VIEWS ON THIS MATTER COULD BE EXPRESSED, SUCH AS HOW THE MANDATED RATE CHANGES WOULD BE APPLIED, ETC. SINCE THE MAJORITY VOTE WAS TO CONTINUE WITH THE HEARING, I PARTICIPATED IN THE PROCEEDING AND WILL VOTE ON THE FINAL OUTCOME, ALTHOUGH I FEEL A DELAY IN THE RATE ISSUE WOULD HAVE BEEN MOST APPROPRIATE.

Rudolph Mitchell

RUDOLPH MITCHELL
COMMISSIONER AT LARGE

DISSENT OF COMMISSIONER WARREN D. ARTHUR, IV:

It is my position that the customers of the affected telephone companies in this case should have been notified directly and given an opportunity to be heard, so that their views on this matter could have been expressed. The Consumer Advocate's and the South Carolina Public Communications Association's motions should have been granted. The customers would have then been allowed to express their opinions on such matters as how and in what fashion the mandated rate changes would be applied and how their future rate increases would impact them. I do not believe that the Legislature intended for the Public Service Commission to abandon its already-established notice provisions for telecommunications cases, even with the mandate for establishment of the interim LAC fund by December 31, 1996. In my opinion, we could have "established" the fund in principle by that date, while still allowing time for the customers to be heard on how the fund would affect their rates for telecommunications services. Since the majority vote was to deny the motions and continue with the hearing, I continued my participation. However, without notice as stated above, I could not vote in favor of the local rate increases as approved by the majority. I have always taken the position that the public is entitled to individual notice of actions that affect their individual rates. I strongly believe it is the ultimate responsibility of the Public Service Commission of South Carolina to assure that a reasonable attempt is made to notify all parties (which was not done in this case) and also that our proceedings are conducted in such a way so as to give all affected parties a reasonable opportunity to participate. Since such notice was not provided in the present case, I respectfully dissent from the majority opinion approving establishment of the fund in a manner that will most certainly cause a number of South Carolina telecommunications users to see an increase in their rates. The mandated interim LEC fund could have been established by the statutory deadline in a manner that was fairer to the telecommunication consumers of South Carolina.

Warren D. Arthur, IV

Commissioner

STATEMENT

IF THE DISSENT IS INDICATING THAT THE STATE LEGISLATURE HAS ESTABLISHED PROVISIONS REQUIRING CUSTOMERS TO BE "NOTIFIED DIRECTLY" THEN, THE DISSENTER IS WRONG AND INCORRECT. THERE ARE NO SUCH ESTABLISHED PROVISIONS AND THIS WOULD EXPLAIN WHY NO CITATIONS ARE GIVEN, I.E., BECAUSE NONE EXIST. FURTHER, THERE ARE NO REGULATIONS OF THIS COMMISSION WHICH REQUIRE CUSTOMERS TO BE DIRECTLY NOTIFIED.

Guy Butler

GUY BUTLER, CHAIRMAN

Philip T. Bradley

PHILIP T. BRADLEY, VICE CHAIRMAN

Cecil A. Bowers

CECIL BOWERS, COMMISSIONER

William Saunders

WILLIAM SAUNDERS, COMMISSIONER

Carter Scott

C. DUKES SCOTT, COMMISSIONER

EXHIBIT D

Exhibit A

SOUTH CAROLINA INTERIM LEC FUND ADMINISTRATION AND PROCEDURES

I. Participation in the Interim LEC Fund

A. The local exchange companies listed in Attachment A (the "Participating LECs") will participate in the Interim LEC Fund (the "Fund") pursuant to the procedures set forth below (the "Plan.")

B. Participating LECs will be compensated monthly from the Fund, as described in Sections III, IV, and V, below.

C. This Plan is intended to be a stand alone plan to accomplish the rebalancing of intrastate switched access rates and the specific local service rates set forth in this Plan. Any changes in rates or revenue requirements which are authorized or mandated outside of this Plan shall not impact the calculations made pursuant to the Plan.

II. Contributions to the Fund

A. The Fund shall receive contributions from those entities (the "Contributing Carriers") receiving an access or interconnection rate reduction from Participating LECs. Contributing Carriers include, but are not limited to, IntraLATA toll providers, IXCs/resellers (including new IXC/reseller entrants), ACP providers to the extent that they terminate measured ACP minutes to a Participating LEC, and other carriers as applicable. Contributing Carriers will contribute to the Fund an amount based on their respective statewide shares of the sum of Participating LECs' intrastate switched access minutes (originating and terminating) and the applicable ACP minutes. If the Commission makes a determination that a carrier's statewide share of such minutes is de minimis, then the Commission may exclude that carrier from the list of Contributing Carriers.

B. In order to assist the Commission in calculating the amount due from each Contributing Carrier, in the first year each Participating LEC will submit to the Commission a report containing those billed minutes of use (by carrier) necessary to calculate each Contributing Carrier's respective statewide share of relevant minutes of use, as described in II(A) above, for the calendar year ending December 31, 1995, or a representative 12 months (the "Base Period."). In subsequent years, each Participating LEC will provide such information, for the most recent quarter for which data is available, to the Commission by October 1. Based on that data, each Contributing Carrier's contribution for the subsequent year will be determined, and the Contributing Carrier notified, by December 1. Each Contributing Carrier shall divide its contribution amount into 12 equal payments, with the first payment being due on January 1 of the subsequent year.

C. Each Contributing Carrier will thereafter remit payments to the Fund by the first of each month. Late payments to the Fund will be assessed at the rate of .0493% per day.

III. Size of the Fund

Each Participating LEC will file, to become effective January 1 of each year beginning in 1997, intrastate switched access tariff rates which equal the intrastate switched access rates, as of October 1 of the previous year, of the largest LEC operating within the State. By way of example, the intrastate switched access rates of the largest LEC currently operating within the State (i.e., BellSouth) are shown in Attachment B. The size of the Fund for calendar year 1997 is the sum of the difference between each individual Participating LEC's intrastate switched access rates in effect on October 1, 1996, and the intrastate switched access rates in effect on that date for the largest LEC operating within the State, multiplied by each individual LEC's Base Period minutes. In future years, the calculation will be made in the same way except that the rates in effect as of October 1 of the previous year for the largest LEC operating within the State will be used. An example of how the size of the Fund will be calculated is shown in Attachment C.

IV. Adjustment to the Size of the Fund

A. Rate rebalancing by Participating LECs will begin in the month of January, 1997. Each Participating LEC will file a subscriber tariff to reflect the rate adjustments identified in the company's proposed Rate Schedule ("Target Rate Adjustments").[1] An individual company's local rate increase pursuant to this Plan is limited to its total Fund requirements. Each company's new rates (including touchtone charges) after the Target Rate Adjustments shall not exceed the statewide average rates as of October 1, 1996; provided that no Participating LEC shall be required to make a rate adjustment pursuant to this Plan if the Participating LEC's rates, including touchtone, already exceed the statewide average rates. Participating LECs shall not be required to increase the business rate to an amount greater than two times the statewide average residential rate. Any local rate increases made pursuant to this Plan will be revenue-neutral to the Participating LECs with respect to Base Period access lines, as these increases will be offset by reductions in the Fund.

[1] The respective companies' Rate Schedules will reflect the individual rate adjustments that each company plans to make, consistent with this Plan. The proposed individual company data will be provided to the Commission in a timely manner. Each company's maximum rate for any given year can be obtained by adding the cumulative rate adjustments to the current (i.e., 1996) rate.

B. As local service rates are adjusted according to the respective companies' Rate Schedules, each Participating LEC's amount due from the Fund will be reduced by the larger of the following:

1. The cumulative rate adjustments, as reflected in the respective companies' Rate Schedules, multiplied by the respective number of access lines for which each service was rendered on the last day of the Base Period.

2. An imputed amount of 20% per year, cumulatively for 5 years, of the difference between the rates in effect on the last day of the Base Period and the corresponding statewide average rates, or such lower amount as may be required by an individual company to achieve revenue neutrality with respect to the Fund, or such lower amount as may be mandated by the Commission.

C. Each year, the Fund will be increased in proportion to the growth in access lines. For year 2 (calendar year 1998), the growth in access lines will be measured by comparing the access lines on the last day of the Base Period with the access lines as reported to NECA for June 30, 1997. Thereafter, the access lines as reported to NECA for June 30 of succeeding years will be used as the basis for comparison. Beginning in 1997, Participating LECs shall report to the Commission on October 1 of each year the access lines as reported to NECA for June 30 of that year.

V. Disbursements from the Fund

The Fund will remit payments to the Participating LECs at the end of each month beginning January 31, 1997, based on the net revenue shortfall, if any, (after adjustments as described in IV above) resulting from access rate reductions.

VI. Termination of the Fund

The Fund will transition into the Universal Service Fund ("USF"), as outlined in S.C. Code Ann. § 58-9-280(E), once funding for the USF is finalized and adequate to support the obligations of the Interim LEC Fund.

Attachment A

Participating LECs

ALLTEL South Carolina, Inc.
Bluffton Telephone Company, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Hargray Telephone Company, Inc.
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Horry Telephone Cooperative, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

Attachment B

Tariff of Largest LEC Operating in South Carolina
(BellSouth)

(For Illustrative Purposes Only)

Switched Premium Local Transport	
Termination (per MOU)	0.01170
Facility (per mile per MOU)	0.00004
Common Carrier Line	
All Feature Groups (per MOU)	
Premium - Originating	0.01
- Terminating	0.02639
Non-Premium - Originating	0.006
- Terminating	0.01583
Local Switching (LS-1-LS-2)	
Per MOU	0.0378
Information Surcharge (per MOU)	0.00037
800 Data Base Query - Per Query	0.001

Attachment C (Page 1 of 2)

South Carolina Interim LEC Fund
Administration and Procedures
Example of Size of Fund (III)

Attachment C

YEAR 1 RATE	A BASE YEAR MINUTES	B LEC RATE 10/1/96	C BELL RATE 10/1/96	D DIFFERENCE IN RATE	E A x D
COMPANY A					
CCL FG-D Originating - Premium	8,000,000	$0.01590	$0.01000	$0.00590	$ 47,200
CCL FG-D Terminating - Premium	11,000,000	$0.03090	$0.02639	$0.00451	$ 49,6100
CO Interconnect Charge	20,000,000	$0.00000	$0.00574	$(0.00574)	$ (114,800)
Switched Prem. Local Trans. Term.	20,000,000	$0.01190	$0.00036	$0.01154	$ 230,809
Switched Prem. Local Trans. Fac. Route 1	2,200,000	$0.00685	$0.00086	$0.00600	$ 13,195
Switched Prem. Local Trans. Fac. Route 2	2,400,000	$0.00082	$0.00010	$0.00072	$ 1,720
Prem. Local Switching (LS-1 & LS-2)	20,000,000	$0.03845	$0.01095	$0.02750	$ 549,952
Information Surcharge	20,000,000	$0.00027	$0.00037	$(0.00010)	$ (2,049)
800 Data Base Query - per Query	700,000	$0.01266	$0.00400	$0.00866	$ 6,065
SUM OF THE DIFFERENCE					$ 781,702
COMPANY B					
'L FG-D Originating - Premium	9,000,000	$0.01590	$0.01000	$0.00590	$ 53,100
,L FG-D Terminating - Premium	12,000,000	$0.03090	$0.02639	$0.00451	$ 54,120
CO Interconnect Charge	22,000,000	$0.00000	$0.00574	$(0.00574)	$ (126,280)
Switched Prem. Local Trans. Term	22,000,000	$0.01082	$0.00036	$0.01046	$ 230,089
Switched Prem. Local Trans Fac Route 1	4,000,000	$0.00685	$0.00086	$0.00600	$ 23,990
Switched Prem Local Trans Fac Route 2	1,000,000	$0.00082	$0.00010	$0.00072	$ 717
Prem Local Switching (LS-1 & LS-2)	22,000,000	$0.03495	$0.01095	$0.02400	$ 528,052
Information Surcharge	22,000,000	$0.00025	$0.00037	$(0.00013)	$ (2,797)
800 Data Base Query - per Query	1,100,000	$0.00806	$0.00400	$0.00406	$ 4,465
SUM OF THE DIFFERENCE					$ 765,456
TOTALS (COMPANY A + COMPANY B)					
CCL FG-D Orginating - Premium	17,000,000				$ 100,300
CCL FG-D Terminating - Premium	23,000,000				$ 103,730
CO Interconnect Charge	42,000,000				$ (241,080)
Switched Prem Local Trans Term	42,000,000				$ 460,898
Switched Prem Local Trans Fac Route 1	6,200,000				$ 37,185
Switched Prem Local Trans Fac Route 2	3,400,000				$ 7,437
Prem Local Switching (LS-1 & LS-2)	42,000,000				$ 1,078,004
Information Surcharge	42,000,000				$ [illegible]
800 Data Base Query - per Query	1,800,000				$ 10,529
	1,800,000				$ 10,529
SUM OF THE DIFFERENCE					
					$ 1,547,159

Attachment C (Page 2 of 2)

South Carolina Interim LEC Fund
Administration and Procedures
Example of Size of Fund (III)

YEAR 2 RATE	A BASE YEAR MINUTES	B LEC RATE 10/1/96	C BELL RATE 10/1/97	D DIFFERENCE IN RATE	E A x D
COMPANY A					
CCL FG-D Originating - Premium	8,000,000	$0.01590	$0.00500	$0.01090	$ 87,200
CCL FG-D Terminating - Premium	11,000,000	$0.03090	$0.02000	$0.01090	$ 119,900
CO Interconnect Charge	20,000,000	$0.00000	$0.00500	$(0.00500)	$ (100,000)
Switched Prem. Local Trans. Term.	20,000,000	$0.01190	$0.00036	$0.01154	$ 230,809
Switched Prem. Local Trans. Fac. Route 1	2,200,000	$0.00685	$0.00086	$0.00600	$ 13,195
Switched Prem. Local Trans. Fac. Route 2	2,400,000	$0.00082	$0.00010	$0.00072	$ 1,720
Prem. Local Switching (LS-1 & LS-2)	20,000,000	$0.03845	$0.01000	$0.02845	$ 568,952
Information Surcharge	20,000,000	$0.00027	$0.00030	$(0.00003)	$ (569)
800 Data Base Query - per Query	700,000	$0.01266	$0.00300	$0.00966	$ 6,765
SUM OF THE DIFFERENCE					$ 927,972
COMPANY B					
CCL FG-D Originating - Premium	9,000,000	$0.01590	$0.00500	$0.01090	$ 98,100
CCL FG-D Terminating - Premium	12,000,000	$0.03090	$0.02000	$0.01090	$ 130,800
CO Interconnect Charge	22,000,000	$0.00000	$0.00500	$(0.00500)	$ (110,000)
itched Prem. Local Trans. Term	22,000,000	$0.01082	$0.00036	$0.01046	$ 230,089
itched Prem. Local Trans Fac Route 1	4,000,000	$0.00685	$0.00086	$0.00600	$ 23,990
Switched Prem Local Trans Fac Route 2	1,000,000	$0.00082	$0.00010	$0.00072	$ 717
Prem Local Switching (LS-1 & LS-2)	22,000,000	$0.03495	$0.01000	$0.02495	$ 548,952
Information Surcharge	22,000,000	$0.00025	$0.00030	$(0.00005)	$ (1,169)
800 Data Base Query - per Query	1,100,000	$0.00806	$0.00300	$0.00506	$ 5,565
SUM OF THE DIFFERENCE					$ 927,044
TOTALS (COMPANY A + COMPANY B)					
CCL FG-D Orginating - Premium	17,000,000				$ 185,300
CCL FG-D Terminating - Premium	23,000,000				$ 250,700
CO Interconnect Charge	42,000,000				$ (210,000)
Switched Prem Local Trans Term	42,000,000				$ 460,898
Switched Prem Local Trans Fac Route 1	6,200,000				$ 37,185
Switched Prem Local Trans Fac Route 2	3,400,000				$ 27,437
Prem Local Switching (LS-1 & LS-2)	42,000,000				$ 1,117,904
Information Surcharge	42,000,000				$ (1,737)
800 Data Base Query - per Query	1,800,000				$ 12,329
SUM OF THE DIFFERENCE					$ 1,855,017